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CONSIDERATIONS

ON THE  
QUALIFICATIONS, CLERKSHIPS, ADMISSIONS,  
AND PRACTICE OF ATTORNIES.

WITH SOME HINTS OF THE  
NECESSITY AND MEANS,  
OF CORRECTING SEVERAL PREVALENT ABUSES,

IN A  
LETTER  
TO THE  
RIGHT HON. LORD KENYON  
AND

LORD LOUGHBOROUGH,  
CHIEF JUSTICES OF THE COURTS OF KING'S BENCH  
AND COMMON PLEAS.

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BY CHARLES MARTYN,  
OF LAMBETH TERRACE, ATTORNEY AND SOLICITOR.

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L O N D O N,

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CONSIDERATIONS

ON THE

COMMERCIAL TREATY BETWEEN GREAT BRITAIN

AND FRANCE OF 1763

WITH REFERENCE TO THE

INTERESTS OF GREAT BRITAIN

OF CONSIDERING THE TREATY AS A

MEMOIR

IN TWO VOLUMES

BY

RIGHT HONORABLE LORD

AND

LORD LONGBROUGH

CHIEF JUSTICE OF THE COURT OF COMMONS

AND COMMONS

BY CHARLES MARY

OF BARRETT STREET, LONDON, AND SONS

LONDON

Printed for T. WHITTAKER, 1788

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**CONSIDERATIONS, &c.**

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**MY LORDS,**

**T**HOUGH it may be considered as highly presumptuous in an humble individual to address your Lordships, on a subject of great weight and importance; and still more so to venture the most distant hint of possible reformation, whilst the government of the courts and the profession is committed to the direction of your Lordships' unquestioned wisdom.

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Yet

Yet from the whole tenor of your Lordships' conduct, no doubt can be entertained that you will patiently attend to any representation that carries with it even the hope of public benefit; and readily exercise powers, which actually exist with you, of affording remedies to grievances which are become almost too intolerable to be endured.

It cannot have escaped the notice of your Lordships, that at least one half of the business which is brought forward in your courts, during term, is interlocutory matter arising from mal-practices, misconduct, or ignorance of attornies; in which no question of right is agitated, or determined, and in which the suitors have no other concern, than as they are to be burthened with the costs of these proceedings, added to the costs which they ought to incur in the prosecution,

or

or defence of their real interests. If this statement is admitted to be correct, and I believe it cannot be controverted, it will follow, that nearly one half of the law expences of the kingdom is incurred, not only unnecessarily, but vexatiously, injuriously, and unjustly,—and

It will also follow, that this expenditure is productive of still greater evils; for of these needless and useless litigations, fraud, chicanery, and perjury, are the leading and predominant features, and as they are merely struggles for undue advantages, the means by which they are obtained is little regarded; and these contests are conducted, on both sides, upon the virtuous principle, that to succeed, is to levy contributions on the opponent, to fail, is to impose them on the client,



From the business of the term, permit me to call your Lordships attention to that of the sittings at *Nisi Prius*, Will appearances be more favourable here? Is the subject of one cause in ten worthy of legal discussion? Are they not in general grounded on petty squabbles, bloodless assaults, and trivial disputes? Do they not, in the like proportion, appear to be rather the suits of the attornies than the clients? And is not the dignity of your courts sported with, the property of the parties scandalously plundered, and the time of the juries shamefully wasted, in prosecuting and bringing to solemn trial questions so frivolous and contemptible?

To the prevalence of these grievances the universal voice of mankind will bear testimony, and I trust your Lordships will honour with your approbation an attempt to explore the source of them,  
and

and to point out the remedies which may be applied.

Of all the professions and employments in life, there is no one so universally held in dislike as that of an attorney. Every play that is exhibited on the stage—every novel that is produced at a circulating library—every news-paper, in the voluminous heap of these diurnal publications, teem with anecdotes, tales, and circumstances, tending to bring this branch of the legal professors into disgrace; nor will I venture to call these aspersions, abuse or detraction, they are too often founded in truth, and so nearly universal is the demerit, that it is hardly possible to condemn, as unjust, the general reproach and obloquy.

This, being the case, it will not be improper to submit to your Lordships,  
with

with great deference, who, and what an attorney should be, and who and what he is.

An attorney, I conceive, should be of, at least, respectable parentage, of liberal education, and of unexceptionable moral character; he should possess patience to hear the case of his client, judgment to discover the truth of it, through the false colouring of self-interest and partiality; and integrity to advise him to desist, if his cause appears unjust or weak, and to settle the best cause amicably, if his opponent shews any such disposition.

Having undertaken the prosecution or defence of a cause, he should be vigilant in the pursuit of it, strenuous in his endeavours to support the interests of his client, and attentively careful that neither  
delay,



delay, neglect, or misconduct may be imputable to him.

To these ends it is necessary that his natural abilities should be above mediocrity, and his early education improved by proper instruction, and by reading, study, and attendance on the courts in his maturer years.

And it is above all things indispensable that he should be inflexibly honest: many are the temptations to which he is exposed, and every virtuous and religious principle must unite to resist them.

And here in grateful tribute to many gentlemen of the profession with whom I have had the honour and happiness to practice I must bear testimony to a truth, which your Lordships will also acknowledge with satisfaction, that the picture

I have sketched of a worthy attorney is not an ideal one, but that numbers (unequal I confess to those of very different complexions, whose portraits I am about to exhibit) are yet to be found, whose integrity, professional knowledge, and general talents, reflect honour on themselves, and shoot a ray of light across the dark shade of disgrace in which the body of attorneys is unhappily enveloped.

Painful will be my task in the delineation of the opposite character; but the purpose of this my application to your Lordships would be unanswered, if I should neglect to bring forward the dreadful contrast, and hold up those pests of society, the miscreant pettifogging tribe, as the objects of public scorn, and of your Lordships' severest indignation.

The

The attorney of this, unfortunately too numerous, class, derives his birth from the dregs of the people, and is in his earliest years accustomed to the meanest offices, and the most servile employments; his education is confined to reading and writing; and thus qualified he obtains employment in the house of some attorney, as a household servant, and is occasionally admitted to his office, to copy pleadings, and serve writs and notices.

In his next step he is elevated to the rank of a hackney writer, and in this character he associates with his brethren, and among them, with some of the lowest, and worst admitted attornies; from some one of these, a trifling sum procures him articles of clerkship, and, without serving a single hour of it, or knowing whether the person to whom he is articulated, has one single piece of business, or

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even



even an office to transact it in, at the end of five years he presents himself for admission; and receiving the authority of the court, sets out on his practice as an attorney and solicitor; where or how he obtains a certificate from a barrister or a clerk in the Court of Chancery, is an enquiry which I am incompetent to make, though it may be well worth the attention of your Lordships.

But before he can be admitted, he is compelled to make *solemn oath, that he has regularly served a clerkship of five years*, and this oath he swallows without hesitation, thus qualifying himself for those parts of his future practice, which may render it convenient not to be over tender in the fabrication of affidavits, or to hold in any other than an hypothetical light, the position, that truth is the basis of law and equity.

From

From such a commencement it will not be unfair to suggest, that he enters upon the profession totally devoid of principle, and from the detail of his life to that entry, it must be inferred, that he is equally wanting in professional, and every other species of knowledge.

But he is embarked in the profession, and he must live—hence the nefarious practices—the promotion and encouragement of petty suits—the shifts, subterfuges, and quirks; the fraud, oppression, and complicated iniquity, which shew themselves to the courts in shapes so various, and under disguises so difficult of detection, as often to baffle even the keen researches of Justice herself, and not unfrequently to leave villainy triumphant, over open and unsuspecting innocence.

Nor are these the only species of legal interlopers, there is yet another set, who without the wretched gradation above described, failing in success in their ordinary trades and callings, or conceiving the profession of the law to be less laborious and more lucrative; jump into it at once without the prefatory qualification of even a pretended clerkship and by the aid of the common indulgent clause in some annual act of parliament, in favour of those who neglect to file the affidavit required by law in due time, and the assistance of a few consciences as easily managed as their own; commence and finish their educations in the duration of a lunar revolution; having spent the five years immediately preceding their admissions, in the humble occupations, for which God and nature had designed them.



Of each of these classes, I beg leave to point out a few individuals, who are within the narrow compass of my own particular knowledge.

Upwards of 20 attornies now in practice who have worn liveries, or acted in the capacities of menial and domestic servants.

One in particular, who having been a livery servant himself, has at this time another GENTLEMAN of the same description, articulated to him: the articulated clerk living remote from his master, and having, during so much of the term of his clerkship as hath hitherto elapsed, acted as a pettifogger on his own account.

One practising attorney, who served the greatest part of his clerkship on board the hulks at Woolwich.

One

One other practising attorney, who served his whole clerkship within the walls of a prison.

One other attorney now in practice, who, after having been many years a journeyman pawnbroker, found it convenient, for very cogent reasons, to quit that employment for the profession of the law.

One other attorney admitted in the Court of Common Pleas, on the last day of the last Michaelmas term, who, within three years now last past, has figured in the several capacities of, an advertising money-broker, under the signature of initial letters; a keeper of a lottery-office; and of a *bureau-d'ecrivaine*, in a little paltry shop; and against whom a warrant is now out, granted by a sitting Alder-

Alderman, and backed by a Magistrate for the county of Middlesex, upon a charge, by oath, of obtaining money by false pretences.

One other attorney, who having been expelled for some improprieties of conduct, from a public institution, to which he was a domestic servant, is now exercising his talents in the line of this, his newly acquired, profession.

An articled clerk, who is worthily employing his clerkship in the useful occupation of a tallow-chandler.

Another who seeks an *honest* livelihood as a common informer, till, by his admission, he shall be permitted to levy *legal contributions* in the character of an attorney.

A jour-



A journeyman taylor, who means to be admitted in one of the four succeeding terms.

This little catalogue may serve as a specimen of the respectability of the present and intended future attornies, and solicitors; but my knowledge of such characters is, I thank God, very confined. Would every worthy attorney contribute his share of information, I apprehend the list would be frightfully extensive.

Having thus placed in your Lordships' view, the qualifications, qualities, and descriptions, of the ordinary herd of attornies, I shall proceed to state their general demeanor, and to offer a few instances of their dangerous and desperate practices.

As

As they are dispersed in every quarter of the metropolis, one or two of them (for like some other beasts of prey, they frequently prowl in couples) find out the evening haunts of the lower order of tradesmen, and introducing themselves, by the superior title of *Lawyers*, and the appearance of a better coat than most of the company, they easily get admission to the clubs and meetings of these unfortunate victims.

A footing thus gained in these societies of the ignorant, the consequences are obvious, they contrive to turn the conversation to professional exploits of their own performance; and boast of their abilities or success in strains of assertion suited to their auditors. There is scarce a man in such companies, but has received, or, which is to him the same thing, fancies he has received, some injury from a neighbour,

bour, for which he wishes to be revenged; or has been deprived of some property, which he wishes to recover; warmed by the conversation of these sons of legal knowledge, he states his case; the lawyers help him out, and between them a pretence for going to law is some way discovered: to the illiterate, and uninformed, nothing can be so sweet as the promise of triumph; the action is commenced; the lawyer, *who deals for ready money only*, draws cash for every move of proceeding, and nursing the cause with every species of delay, the client's purse is drained, he can no longer supply the calls of his attorney, and he is obliged to relinquish his hopes, at the moment when he is told that a few pounds would insure him their complete accomplishment: and this the honest practitioner ventures to assert without apprehension of detection, having fully sounded the depth of his client's pocket,



pocket, in a long course of applications to it.

Should this fund of business fail, there are yet other resources. At meetings like these, the pot circulates freely, disputes arise, they are with little difficulty ripened into quarrels, and a few black eyes, and bloody noses, afford excellent food for these *anthropophagi*; and as in all contested cases two attornies must be *apparently* engaged, it generally happens that two stars of the same magnitude twinkle in one constellation.

The purlieus of the several prisons in and about the metropolis swarm with attornies of this description. Every man who becomes an inhabitant of a prison, supposes himself injured or oppressed; he complains of his grievances, and is immediately recommended to a *lawyer*, who

will obtain redress for him—a number of legal objections are taken to the proceedings against him—some one of these must be fatal—his liberation is certain.—Money is raised, at the expence of the little necessities which might procure him comfort in his confinement; effort after effort is made, all equally unsuccessful, till at length he discovers, too late, that he has been the dupe of a mercenary pretender; he wishes to throw himself on the mercy of his plaintiff, who, enraged at the expences which he has incurred by these fruitless struggles, is inexorable, and the unhappy wretch is left to pine, too probably to perish, in want and misery.

Thus are the lower orders of people, and the most unfortunate, constantly preyed on; thus is the law dishonoured, the profession of it disgraced, and the means which our constitution offers to  
redress

redress the injured and protect the oppressed, shamefully and scandalously perverted to the purposes of rapine, extortion, and villainy.

And if it was possible to pursue an enquiry through the various cells of the several prisons for debtors, in and about the capital, it would be found that nearly one half of the miserable occupiers have been reduced to that situation by misplaced confidence in low and pettifogging attornies.

It may perhaps appear extraordinary, that wretches grovelling in the dirt I have described, should have the means of paying down the sum levied by act of parliament on every practising attorney; and did they find it necessary to conform to this law, it would probably, with many of them, be extremely difficult;



cult; but here too they are provided with a subterfuge, four or five of these gentry combine together, and making a subscription fund for raising the five pounds, one of the number is invested with the legal character, and the others practise in his name; and this fraud on the revenue is productive of a still greater evil, it binds the fraternity together in bands of fellowship, exposes the unhappy subjects of their depredations to the united efforts of many, instead of one; and as they are to divide the spoils, the plunder must be proportioned to the division.

Nor does the grievance stop here—like the reptile by which the father of evil is represented, they procreate in their dung-hills; each of these *lawyers* has an articulated clerk or two, every one of whom is a pettifogger in embryo; and as the shell  
is

is broken, and the spawn ripened into maturity, earlier or later, as best suits the purposes of the masters, and the clerks, they multiply in a much quicker proportion than two in five years, periods, far short of that duration, serving as the terms of their clerkship.

And here I could point out to your Lordships instances, where the cause has been commenced in one name, and in the course of it changed to another, each of the two attornies appearing, by affidavits filed, to have acted as clerk and master; the last man having in the outset sworn, that he was clerk to the first, and in the subsequent proceedings, the first man having declared himself on oath to be clerk to the last; and these shifts of character do not uncommonly occasion the mischiefs they are designed to produce, confounding the fair practiser, and rendering it difficult

difficult for him to fix the enormities, which he will most probably discover, and wish to punish.

Having presented to your Lordships the frightful picture of the miscreant attorney, the task I have undertaken leads me to prove by circumstance his dangerous and nefarious practices in the courts: and though in the execution of this cast of my office, I am almost overwhelmed with the quantity and variety of matter, yet I shall confine myself to a very few instances, because this is a part of the complaint which I have undertaken to exhibit to your Lordships, that has fallen much more under your Lordships' own observations, than the professional births, and out-of-door proceedings, of these scourges of society.

But



But before I enter on these particulars, I must request your Lordships' permission to make one general observation, which may tend to give weight and force to the examples I mean to offer.

In all interlocutory matters, the course is for the party who is aggrieved, or supposes himself aggrieved by irregularity of proceeding, to apply to the court for a rule to shew cause why the proceedings complained of should not be set aside with costs; and this application is grounded on affidavit of the fact, or supposed fact, of irregularity, which frequently arises from some conversation between the parties, or their attornies; from some conceived defect in the manner or time of serving notices, or from some other matter which can only be determined by the paths of those concerned: on this application the rule is granted; and it is the

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business

business of the attorney who is, or is supposed to be, irregular, to purge himself of the charge by affidavit; if he does this, the rule is discharged, if he fails to do it, it is made absolute; and in either case most commonly with costs.

Hence it appears, that he, to whom oaths are no obstacles, will purposely be irregular to bring on that train of proceedings, which will ultimately be with certainty, productive of costs to him; for as he is to be the last swearer, no doubt can be entertained; and in most contests of this kind, it may be observed, that the charge of irregularity is brought against the pettifogging attorney; and in nine cases out of ten, is completely obviated, by himself or his clerks.

Some years ago a celebrated dancing-master was arrested, at the suit of a tradesman,

man, for a debt, somewhat above 20 l. by an attorney of equal celebrity, (who has since received the elevation he so justly merited); a bail bond was given to the sheriff; and previous to the time when bail should be put in above, the Defendant's attorney, a man of deserved reputation, called on the plaintiff's attorney to pay the debt and costs, which fell somewhat short of 30 l.—the Defendant's attorney tendered a bank note of 30 l. value; the plaintiff's attorney had no change;—he was desired to send out for it—he had no clerk in the way—the defendant's attorney offered to leave the note, and send for the change; but he was requested by the plaintiff's attorney to take it with him—"You cannot suppose," says he, "that I should doubt your word; pay it the next time you pass this way, or we shall meet some day of the term at the Hall: you may depend on



"all proceedings being stayed." The honest practiser, cajoled by this apparent frankness, took back his note, and within twenty-four hours was informed by his client and his bail, that they had severally been served with copies of writs, on an assignment of the bail-bond. He applied to the Court; and, on an affidavit of the real case, obtained the usual rule to shew cause: but the statement on which the rule was granted, was completely answered by a volume of affidavits; and the only redress the defendant could obtain, was to be admitted to put in bail in the original cause, on payment of costs of the assignment of the bail-bond, and the proceedings thereon, and the costs of the application, which together amounted to more than the debt which the action had been brought to recover. The plaintiff's attorney rose into the

the profession by regular gradation, from the rank of a foot-boy.

This case applies principally to the observation above made; the following may serve as instances of the depraved, and iniquitous practice of the low class of attornies in general.

In a parish adjoining the metropolis, and within the Bills of mortality, an honest man, a labourer in an humble occupation, received, as a lodger, *a gentleman of the law*, who came thither for the benefit of the air, that of the northern quarter of the town having disagreed with him. After some months residence, having incurred a debt of three or four pounds to his landlord, which he was unable to discharge, he gave the poor man a note of hand for the money, and departed.

Another

Another gentleman, who was, or pretended to be, of the same profession, succeeded him in the lodging; and the honest man having, after some acquaintance, informed his new lodger of the conduct of his predecessor, he was assured by him, that he well knew the debtor, that he was very capable of discharging the debt, and that though he had some reasons for declining to engage in it himself, yet he would recommend him to a gentleman who would certainly recover the money for him, without putting him to a shilling expence.

On the receipt of this intelligence the joyful creditor readily agreed to accompany his lodger to this excellent friend, and he accordingly introduced him to a quondam footman, now practising as an attorney (and whom I have already mentioned as having a gentleman of the same description



description articulated to him) and to him he delivered his note, under the strongest assurances that he would receive the value of it, free from all expence.

For some months he heard nothing of his attorney; at the end of that time, as he was following his occupation, he was seized by the officers of the Sheriff, and conveyed to a place of safety, till he could raise six or seven pounds, for which sum he had been taken in execution, at the suit of his debtor, for (as he has been since informed) the costs on a judgment of Nonpros, obtained against him by the neglect or misconduct of the attorney who had undertaken to recover the money for him: and by the payment of this sum, procured at the expence of many of the conveniences and some of the necessaries of life, he was obliged to purchase his enlargement.

He

He some time after applied to his worthy attorney, to account for his conduct, and make him some satisfaction, but he was driven from his door with a threat, that if he was troublesome he should make out his own bill of costs, which would amount to 10l. and which he would be compelled to pay; intimidated by this menace, he desisted from further application, and submitted to the loss of his money and his note; nor can any remedy be pointed out to him; his friend who introduced him to the attorney is nowhere to be found; and should he apply to the court upon affidavit, *the attorney will swear* *last*

About two years since, a poor man and woman who resided about eight miles from town, having lent their whole property, amounting to somewhat about 40l. to a person able, but not willing to repay them,

them, came to London to an acquaintance, and desired to be recommended to a lawyer; in the neighbourhood lived a *Gentleman* who professed the law, to him they applied; he undertook their case, and in the progress of the cause obtained from them about nine or ten pounds in money, and when it came to trial they were nearly at an equal expence in carriages for their witnesses, and other charges: When the cause was called on, the plaintiff, his wife, and their witnesses were in attendance, but, to their surprize, this pretended attorney came out from the court in two or three minutes, and told them it was now all over; and every thing was in their favor. Soon afterwards they were informed that they must attend again with their witnesses; they did so, and it now appeared that the cause had been referred, and by the award their claim was reduced to 21l. and costs. The whole debt and costs re-

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covered



covered and received, amounted to upwards of 50l. They applied for their debt, and were paid about 6l. being all, as they were told, that was coming to them—on this they remonstrated, and now discovered that the person whom they had confided in was no attorney—the cause had been prosecuted in a different name, and the fact was, that the man who undertook it lived at the extremity of the town, and was a hackney writer to an attorney, but not to the person whose name was used, to him he was an articulated clerk, and has, I understand, been since admitted an attorney under these articles.

Thus disappointed, the poor plaintiff applied to an attorney, and on an affidavit of these facts the court was moved; but the first attorney and his clerk produced near one hundred sheets of affidavit, in answer to the complaint, by which it was

so contradicted or confused, that the plaintiff's council advised him to suffer the rule to be discharged without costs; and the poor unfortunate old couple are obliged to sit down with the loss of their whole debt—upwards of 10l. advanced and paid, and more than that sum expended in the fruitless application to the court; after an award in their favour, with costs of suit.

A distressed tradesman having been arrested for a debt a few months ago, gave bail to the sheriff, and the writ being returnable the last day of the term, bail was put in above, and notice given of justification the first day of the term ensuing; but finding himself unable to pay or settle the debt, he applied to his attorney, and desiring to surrender in discharge of his bail, he was directed to prepare himself in due time; and previous to the term his attorney sent to him to come the next day to complete

the furrender; but the clerk who carried the message was informed that he had employed some other attorney in that business.

A few days after the wife of the tradesman, came to his former attorney in great distress, and acquainted him that her husband had been persuaded to employ one of the attornies who attended about the prison; that he had given him the sum he had demanded; that he soon discovered this man was not an attorney, and had done nothing; that he then employed another of the like description, and of the same recommendation, who had also received from him a sum of money equal to what he had already advanced to the other; that he had now been informed that this last man, either was not an attorney, or was not in a situation to practise as one, and that he apprehended  
nothing



nothing had been done, and therefore earnestly requested his former attorney to forgive the impropriety of his conduct to him, and rescue the bail from danger: in compassion to the man's situation, he undertook to look into the business, and tracing it through the several offices, found the surrender nearly completed by a third person who was an attorney: and thus after about treble the charge which would have been incurred with a fair and regular practiser, and after extreme anxiety and uneasiness, the surrender was perfected, and the bail discharged.

A waiter at a public place of entertainment, in the course of the last summer, applied to a gentleman of the profession, and told him he was recommended to him to obtain a new trial for him, in a cause which had then lately been tried, and wherein he apprehended himself injured,  
by

by a verdict which had been obtained against him.

And he stated this case—That himself, Mr. A. the butcher, Mr. B. the hair-dresser, Mr. C. *the attorney*, and a few *other gentlemen*, met at a public-house to play at cribbage for a supper; that some words having arisen between one of the company and himself, the other had challenged him to fight—that he declining to accept it, his opponent had driven him round the room with his fists in his stomach; that continuing this insult, as he passed the chimney, he seized the fire-pan, and gave his adversary a scratch on the head; that *the attorney present* had brought an action against him, and he had been recommended to a person to defend, whose name or residence he did not know, but he believed he was a clerk, and could not practise in his own name—that the cause  
had

had been tried, and the verdict above described the result; and this verdict he conceived to be improperly given, as, according to his representation, the plaintiff was the aggressor: However, the gentleman to whom he applied, having enquired into the circumstances from the learned counsel, who was employed in his defence; and finding that, though the assault was certainly made by the plaintiff, yet that the scratch mentioned was a violent cut; and considering that, could a new trial be obtained, the pursuit of the cause could only be productive of ruin to both parties; he advised the man to be content with the loss he had already sustained, and avoid in future *supper and card parties with attornies* who frequent alehouses, for very little other purpose, than to foment quarrels and pick up causes.

I have



I have now before me a bill of costs in an action brought to recover somewhat above forty shillings, in which the attornies, finding there was a risque that neither party would be able to pay the costs if the cause should be tried, have contrived to make a little annuity out of it, by giving seven notices of trial, and as many notices of countermand, enriching the charges for these proceedings by seven term fees on each side. And these petty sums they have managed to squeeze out of their poor clients, after having levied on them the costs of bringing the cause to issue.

But enough of this filth—it is unnecessary to exhaust your Lordships' patience by pursuing a subject which can only serve to excite your disgust, abhorrence and contempt; instances enough have been adduced to prove the existence of the evil, and to urge the necessity of its removal.

But

But here my task grows difficult, and I am involved in all the embarrassments of doubt, diffidence, and misgiving apprehensions; yet, inspired by a full knowledge of your Lordships' perfect attention to the minutest branches of the great offices committed to your administration, and emboldened by a confidence, arising from the rectitude of my own intentions, I will not shrink from the most arduous part of the work I have undertaken, but will venture, with humblest deference, to submit to your Lordships, the imperfect outlines of a plan for reforming the abuses, which I have endeavoured to point out. And the consideration of this plan must necessarily fall under two heads, the correction of the present abuses, and the prevention of them in future.

*Venienti occurrere morbo*, is a caution as necessary in law as in phyfic, and in both cases it will be found most safe and least difficult to check the growing disease, and attack the first symptoms of an approaching malady.

But when this has not been done, and it rages with dangerous violence, medicines must be administered, strong, active, and of powerful operation.

And to cure effectually the disorder which is the subject of this letter, they must be applied with an unsparing hand, in this case tenderness would be cruelty, and mercy misapplied.

The opportunity of swearing last is, as has been already stated, the great inducement to sharpening and unfair practice—the remedy by indictment for perjury is too  
often



often beyond the reach of the injured party—the expence attending it is enormous, the process critically difficult, and the end, when obtained, brings no reimbursement of loss or expence—to a poor man these are obstacles which he cannot attempt to surmount, and as the practice of the pettifogging attorney lies principally, if not wholly, amongst the needy, he ventures to swear without dread of future punishment.

The dreadful effects of such adventurous oaths might perhaps be in some measure obviated by a reference, in all cases, where the affidavit is made by the attorney, his clerk or his client, and in all other cases where there appears no clear and decisive preponderation, to a proper officer, who might be authorized to examine the parties *viva voce*, if he saw it necessary, and after enquiring by this, or any other means

means that might be found expedient, to report his opinion to the court—such a summary proceeding would be attended with little expence, and the apprehension of such an investigation would most probably render the production of desperate affidavits less frequent, and the success of them being much less certain than at present, the same temptation to swear loosely, wantonly, or wickedly, would not present itself.

In all cases where there is an obvious effort of shuffling or chicanery on the part of the attorney, if he was immediately to be called before the court, and publickly reprimanded, it might answer the double purpose of correction to the delinquent, and example to others.

If after such reprimand, any one should be found hardy enough to tread again the  
same

same path, a suspension from practice for one, two, or three years, according to the extent of the conduct, might operate advantageously.

The third attempt should be decisive, his name would then be deservedly struck out of the roll of attorneys, and his character exposed to scorn and contempt by a publication of his crimes and his punishment.

But if in cases of actual malpractice, the disgrace of the offenders was immediate, and they were at once rendered incapable of continuing their enormities, a few examples of this kind might strike the miscreant tribe with terror, and deter others from exposing themselves to the same fate.

Nor



Nor should the dismissal from the roll of attornies be merely known in the court, or at the moment the punishment is inflicted; the name of the offender, the nature of his offence, and the merited sentence denounced against him, should be inscribed in legible characters on a tablet, and exposed in each of the courts for the four succeeding terms.

Such a publication would probably answer the excellent purpose of preventing the rejected pettifogger from acting in the name of another—his fame would be notorious, and he would find it difficult to impose himself as a practiser even upon the lowest order of the people.

And if in addition to the censure of your Lordships, the general body of this branch of the profession would unite in avoiding all communication or connection  
with

with contaminated or marked characters, attornies of this description would be compelled either to herd together, and by that means to become conspicuously despicable; or to avoid this effect of the contempt expressed at their conduct, they would separate and keep aloof from each other, and thus divided, their attacks on society would be lessened both in force and danger.

I am aware that in this case the best remedies that can be offered (and I have no doubt that many better than those I have suggested may be adopted) will be found inadequate to universal relief, but it is an object of no little importance to lessen the numbers, or circumscribe the powers of those devouring caterpillars of the law.

To prevent in future the admission of improper persons to act as attornies, is  
the

the only effectual remedy for the evils I have endeavoured to represent, but this is a work of time, and will not be unattended with difficulty.

Experience has proved that the tax on attornies, imposed in the shape of a certificate, however it may have benefited the revenue, has failed in preventing the admission or practice of one unworthy man; nor will any pecuniary fine, (unless it should be of such magnitude as to act as an interdiction to fit persons also) answer any such purpose; the present act charging the five pounds and three pounds is evaded every hour; and the combinations which I have represented, would operate in the same way to elude the payment of higher impositions. Nor is the keeping out the needy attorney the only, or even the principal object, the low illiterate unprincipled wretch,



wretch, possessed of money, would be the more capable of doing mischief.

Some other method therefore must be adopted, and the following may probably afford some grounds, for a more complete, perfect, and unexceptionable system.

Let the annual indulgence of parliament, for indemnifying clerks to attornies, who have neglected to file affidavits of the execution of their articles in due time, be in future wholly omitted.

Let the affidavit of the clerk, that he has duly served five years to his master or masters, extend to his having, during the whole time, been actually employed in the office or offices, house or houses, of his master or masters, in doing his or their business or businesses; and that he has

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not

not, during the time of his clerkship, been employed by any other person or persons, for profit, hire, or wages; or been engaged or concerned in the practice of any other trade, occupation, profession or employment.

Let every person who offers himself to be admitted an attorney, *be examined in open court*, as to his moral as well as his professional fitness, and let the master also attend, if the clerkship hath been served in, or within a certain number of miles of, the metropolis, and be examined on oath, in open court, as to the manner in which the clerkship hath been served—and if the place of his residence exceeds that distance, let him exhibit an affidavit to the same purport as that of the clerk.

These regulations will effectually prevent any person of improper character or  
situation

situation in life, from attempting to be admitted an attorney. They will keep back the grossly ignorant and illiterate from the dangerous effort; and though it is not to be apprehended that the examination will often produce proofs of deep erudition or knowledge; yet it will enable your Lordships to judge whether the candidates are of such conditions, appearances, and ages, as that they may be expected to improve by experience, and to acquire with their ripening years, a due degree of professional skill.

With a bench, where consummate wisdom, and unwarped integrity shine with resplendent lustre—with a bar, where eloquence and elegance, ability and probity, are universally and equally conspicuous—with officers in the several courts, distinguished and admired for their impartiality, attention, and affability, and with  
attornies



attornies approved in character and qualifications by your Lordships; the law would soon become, what our excellent constitution designed it, a terror and scourge to the wicked, and a support and shield to the oppressed—the horrors of engaging in suits for the ascertainment of property would vanish; and instead of the odium, dislike and abhorrence, which rests on the general body of practising attornies, the character would soon become as respectable, as it would be useful; and they would be looked to with confidence, as the channels through which justice and right might be obtained, with certainty and safety.

Should these few loose hints which I have thrown together, and presume to present to your Lordships, be considered in the smallest degree worthy of your Lordships' attention, my purpose will be

be fully answered. It is for the public only that I apply, nor have I any views which concern myself.

To your Lordships I offer no apologies, to mean well is to merit, and to receive your approbation.

I have the honour to be, with the most perfect respect,

MY LORDS,

Your Lordships' most devoted

and obedient servant,

CHA. MARTYN.

*Lambeth Terrace,*

*1st May, 1790.*

1837  
The only answer is for the public  
only that I apply, not have I  
which cannot be denied

To your I am a devoted  
to mean well is to mean  
your approbation.

I have the honor to be, with the most  
of your friends

MY LORDS

Your Lordships are  
and obedient

CHAS. MARTIN

London  
21st Decr 1837